

FILED BY *eg* D.C.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

APR 29 2005

ROBERT R. DI TROLLO  
CLERK, U.S. DIST. CT.  
W.D. OF TN, MEMPHIS

ROBERT SCOTT LEWIS,

Robert R. Di Trollo, Clerk  
U. S. DIST COURT  
W. D. OF TN, MEMPHIS

Plaintiff,

vs.

No. 03-2405 MI/P

SHELBY COUNTY GOVERNMENT,  
and SGT. J. L. MAYES, individually  
and in his official capacity,

MOTION GRANTED

JOHN PHIPPS McCALLA  
U.S. DISTRICT JUDGE

Defendants.

May 3, 2005  
DATE

MOTION BY DEFENDANTS FOR PERMISSION TO FILE JOINT  
PRETRIAL ORDER AFTER PRETRIAL CONFERENCE

Come now the Defendants and would respectfully show unto the Court that this Honorable Court has set May 9, 2005 for the Pretrial Conference and May 2, 2005 for the Joint Pretrial Order filing date.

On January 31, 2005, this Honorable Court denied a joint motion requesting a continuance on the Pretrial Order until after the Court had ruled on Defendants' Motion for Summary Judgment. In accordance with the Court's ruling of January 31, 2005, Defendants prepared a proposed Pretrial Order and filed same on February 5, 2005. The Pretrial Order is now due on May 2, 2005. On April 28 and April 29, 2005, by faxes, Kathleen Caldwell's office faxed a Joint Pretrial Order. Ms. Caldwell was in Cincinnati on both April 28 and April 29, 2005. Counsel for Defendants could not agree to the Joint Pretrial Order as prepared by Plaintiff's counsel. Defense counsel tried to talk to Ms. Caldwell, but was informed by her secretary on April 28, 2005 was in Cincinnati and when defense counsel again called on April 29 to Plaintiff's counsel's

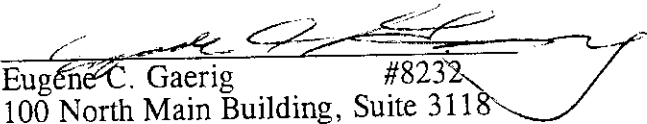
office and the latest call being at approximately 3:30 p.m., and was informed that Ms. Caldwell was in flight back to Memphis and could not call defense counsel.

Defendants would respectfully ask the Honorable Court to please allow the parties to prepare a Joint Pretrial Order after the date of the Pretrial Conference on May 9, 2005. Since counsel for the Defendants cannot communicate with Kathleen Caldwell, attorney for the Plaintiff, about the Pretrial Order, there is no way to comply with the Court Order of May 2, 2005. Defense counsel would show that the first proposed notice about a Joint Pretrial Order was what was faxed on April 28, 2005 and that was subsequently changed on April 29, 2005 by another fax. Both of these proposed faxes had the stamp "dictated by not read," Kathleen Caldwell. Because defense counsel cannot communicate with Plaintiff's counsel about whether or not she opposes this request to pass the Pretrial Order from May 2 until after the Pretrial Conference on May 9, defense counsel will simply have to file this as Defendants' request, as opposed to a joint request.

For all the above reasons, it is respectfully prayed that this Honorable Court allow the parties to prepare a Joint Pretrial Order after May 9, 2005. Ms. Caldwell is scheduled to start a trial on Monday, May 2, 2005, and cannot be available to confer with defense counsel for purposes of trying to submit a Joint Pretrial Order by the due date of May 2, 2005.

For all the above reasons, it is respectfully prayed that this Honorable Court all the Joint Pretrial Order to be prepared after May 9, 2005, which is the Pretrial Conference scheduled time.

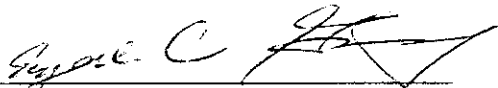
Respectfully submitted,

  
Eugene C. Gaerig #8232  
100 North Main Building, Suite 3118  
Memphis, Tennessee 38103  
901-526-6000; Fax 901-526-6030

Assistant Shelby County Attorney

CERTIFICATE OF SERVICE

I, Eugene C. Gaerig, do hereby certify that I have mailed a copy of the foregoing to Kathleen L. Caldwell, Attorney for Plaintiff, 2080 Peabody Avenue, Memphis, Tennessee 38104, this the 22 day of April, 2005.

  
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Eugene C. Gaerig



## Notice of Distribution

This notice confirms a copy of the document docketed as number 92 in case 2:03-CV-02405 was distributed by fax, mail, or direct printing on May 4, 2005 to the parties listed.

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Eugene C. Gaerig  
LAW OFFICES OF EUGENE C. GAERIG  
100 N. Main Street  
Ste. 3118  
Memphis, TN 38103

Kathleen L. Caldwell  
LAW OFFICE OF KATHLEEN L. CALDWELL  
2080 Peabody Ave.  
Memphis, TN 38104

Honorable Jon McCalla  
US DISTRICT COURT